

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF KENTUCKY)	
POWER COMPANY FOR (1) A GENERAL)	
ADJUSTMENT OF ITS RATES FOR ELECTRIC)	CASE NO.
SERVICE; (2) AN ORDER APPROVING ITS 2017)	2017-00179
ENVIRONMENTAL COMPLIANCE PLAN; (3) AN)	
ORDER APPROVING ITS TARIFFS AND RIDERS;)	
(4) AN ORDER APPROVING ACCOUNTING)	
PRACTICES TO ESTABLISH REGULATORY)	
ASSETS AND LIABILITIES; AND (5) AN ORDER)	
GRANTING ALL OTHER REQUIRED APPROVALS)	
AND RELIEF)	

ORDER

This matter arises upon the motion of the Kentucky Cable Telecommunications Association (“KCTA”) filed July 10, 2017, for full intervention. As a basis for its motion to intervene, KCTA states that it is a non-profit organization of cable operators. Seven of KCTA’s members attach their facilities to the utility poles of Kentucky Power Company and are directly affected by Kentucky Power Company’s application, which proposes to modify its pole attachment rates, terms, and conditions.¹ On this basis, KCTA’s members claim a direct and substantial interest in the outcome of this proceeding. KCTA is requesting intervention in lieu of the individual members, claiming that this will promote timely and efficient progress of this proceeding by reducing the burden on other parties and on the Commission.

¹ The seven KCTA members directly affected by Kentucky Power Company’s Application are Access Cable TV, Armstrong Cable, Big Sandy Broadband, Charter Spectrum, Inter Mountain Cable, Lycom Communications, and TBS Cable.

At a July 24, 2017 hearing held to assist the Commission in reaching a decision on pending motions to intervene the Commission received testimony from representatives of KCTA in support of its request to intervene. Randy Hollis, executive director of KCTA, testified that seven of its 14 members would be affected by the proposed modifications in the application. He stated that no other party or intervenor can represent the cable companies in a better or more efficient manner on an issue which uniquely concerns cable companies and could result in a substantial increase in costs to the cable companies, which could then be passed on to the customers of these companies.

Based on the motion to intervene and hearing testimony, and being otherwise sufficiently advised, the Commission finds that the only person who has a statutory right to intervene in a Commission case is the Attorney General, pursuant to KRS 367.150(8)(b). Intervention by all others is permissive and is within the sound discretion of the Commission.² The Court of Appeals has held that the Commission's discretion to grant or deny a motion for intervention is not unlimited, and has enumerated the limits on the Commission's discretion, with one arising under statute, the other under regulation.³ The statutory limitation, KRS 278.040(2), requires that "the person seeking intervention must have an interest in the 'rates' or 'service' of a utility, since those are the only two subjects under the jurisdiction of the PSC."⁴

² *Inter-County Rural Electric Cooperative Corporation v. Public Service Commission of Kentucky*, 407 S.W.2d 127, 130 (Ky. 1966).

³ *EnviroPower, LLC v. Public Service Commission of Kentucky*, No. 2005-CA-001792-MR, 2007 WL 289328 (Ky. App. Feb. 2, 2007).

⁴ *Id.* at 3.

The regulatory limitation is set forth in 807 KAR 5:001, Section 4(11)(a), which requires a person to demonstrate either (1) a special interest in the proceeding which is not otherwise adequately represented in the case, or (2) that intervention is likely to present issues or develop facts that will assist the Commission in fully considering the matter without unduly complicating or disrupting the proceedings.

In analyzing the pending motion to intervene on behalf of KCTA's seven affected members, we find that KCTA is likely to present issues and develop facts that will assist the Commission in fully considering the matter without unduly complicating or disrupting the proceedings. The Commission, being otherwise sufficiently advised, finds that the motion should be granted.

IT IS HEREBY ORDERED that:

1. The motion of KCTA to intervene is granted.
2. KCTA shall be entitled to the full rights of a party and shall be served with the Commission's Orders and with filed testimony, exhibits, pleadings, correspondence, and all other documents submitted by parties after the date of this Order.
3. KCTA shall comply with all provisions of the Commission's regulation, 807 KAR 5:001, Section 8, related to the service and electronic filing of documents.
4. KCTA shall adhere to the procedural schedule set forth in the Commission's July 17, 2017 Order and as amended by subsequent Orders.
5. Pursuant to 807 KAR 5:001, Section 8(9), within seven days of entry of this Order, KCTA shall file a written statement, with a copy to parties of record, that:
 - a. Affirms that its agent possesses the facilities to receive electronic transmissions;

b. Sets forth the electronic mail address to which all electronic notices and messages related to this proceeding should be served.

By the Commission



ATTEST:



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